

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16433
[Redacted]	)	
	)	DECISION
Petitioner.	)	
_____	)	

On November 13, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1994, 1995 and 1997 in the total amount of \$20,509.

On January 14, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayer might have had a filing requirement for the tax years 1994 and 1995. The Bureau researched the Tax Commission's records and found that the taxpayer did not file Idaho income tax returns for the tax years 1994, 1995 and 1997. The Bureau sent the taxpayer a letter asking about his filing requirement but received no response. The Bureau reviewed the available information and determined the taxpayer was required to file income tax returns. The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Notice of Deficiency Determination. The taxpayer provided income tax returns for 1995 and 1997. He also stated he lived in Alaska in 1994. The Bureau reviewed the returns submitted by the taxpayer and determined the 1997 return was acceptable. Therefore, the Bureau cancelled the Notice of Deficiency Determination for the 1997 tax year.

As for the 1995 return, the Bureau found it was not acceptable. The taxpayer filed the return as married filing joint. However, the Bureau found that the individual the taxpayer was filing a joint return with had already filed an income tax return as a single individual. Therefore, the Bureau corrected the taxpayer's 1995 return and sent him a copy to sign and return showing his acceptance of the Bureau's changes. The Bureau also sent the taxpayer a questionnaire for tax year 1994. The taxpayer did not return the corrected 1995 return, but he did respond to some of the Bureau's questions.

The taxpayer stated that in 1994 he went to [Redacted], but not for the entire year. He stated he did not give up his Idaho residency; however, he did not earn any taxable income in Idaho. The taxpayer stated he did not earn very much [Redacted] and that he was not there long enough to become a resident. He said he returned to Idaho in July 1994. The taxpayer did not provide any specifics as to how much income he had in 1994, so the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent the taxpayer follow-up letters but still the taxpayer did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

For 1994, the taxpayer stated he went to [Redacted]. According to the taxpayer, he was in [Redacted] for only three months. He further stated that he did not give up his Idaho residency.

Idaho Code section 63-3013 stated in part that a resident of Idaho is an individual that is domiciled in the state. IDAPA 35.01.01.030, Income Tax Administrative Rules, defines domicile as the place where an individual has his true, fixed, permanent home and principal

establishment, and to which place he has the intention of returning whenever he is absent. Domicile, once established is never lost until there is a concurrence of a specific intent to abandon an old domicile, intent to acquire a specific new domicile, and the actual physical presence in a new domicile.

It is apparent from the record that the taxpayer was domiciled in Idaho prior to 1994. The taxpayer also stated that he did not give up his Idaho residency. Therefore, it is easy to conclude that the taxpayer did not have the intent to abandon Idaho or the intent to acquire [Redacted] as his domicile for 1994.

Idaho Code section 63-3002 states the intent of the Idaho legislature of the income tax act to impose a tax on the residents of Idaho measured by income earned wherever derived. Since the taxpayer did not abandon Idaho and retained his resident status, the taxpayer was required to report his income from all sources to Idaho. However, the taxpayer did not provide any information to show his income for 1994. The Bureau estimated the taxpayer's income for 1994 based upon the information it had available. The Tax Commission reviewed the Bureau's estimate and the statements provided by the taxpayer. The Tax Commission determined the estimate was accurate based upon the information the Bureau had. However, with the additional information the taxpayer provided the Tax Commission finds the Bureau's estimate should be adjusted. Therefore, the Tax Commission modified the 1994 return to account for the information the taxpayer provided.

The Tax Commission reviewed the change the Bureau made to the taxpayer's 1995 return. The Tax Commission found the Bureau correctly changed the taxpayer's return. The taxpayer offered no explanation for the joint filing or the separate filing of the other individual.

Therefore, the Tax Commission finds the corrected 1995 return to be an accurate representation of the taxpayer's taxable income for 1995.

WHEREFORE, the Notice of Deficiency Determination dated November 13, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$1,114	\$279	\$703	\$2,096
1995	1,103	276	602	<u>1,981</u>
			TOTAL DUE	<u>\$4,077</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's rights to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]